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THE FOUNDATION OF LEGAL LIABILITY. By THOMAS ATKINS STREET. Vol. III. Common Law Actions. Northport: Edward Thompson Company. 1906. pp. xi, 572.

Nearly half of this volume consists of the Table of Cases cited in the three volumes of the work, and of the Index to these volumes. Of the text, the first eight chapters, covering ninety-five pages, are devoted to what the author designates as "Natural History of Remedial Law" and the last four to the treatment of the "Remedy of Distress," leaving eleven chapters, covering less than two hundred pages, in which the common-law actions usually classified as personal actions are directly considered, the only substantial reference to real and mixed actions appearing in the earlier portion of the work relating to classification of actions. The present writer does not feel that the volume is of such importance as to justify any exhaustive review.

It is true that the author informs us that he "shall try to say things that others have left unsaid," but if he means by that statement that he expects to add to our legal knowledge, it is submitted that his efforts have failed. If, on the other hand, the statement is to be considered as referring to certain opinions which are expressed with great confidence, and which differ from those usually entertained—for example, the opinion that "the fundamental principle" upon which the common law rule that a right of action was not assignable was founded, is that "one who claims as the mere assignee of a right of action must fail in the attempt to enforce it, because he is not in privity with the person against whom the obligation exists" (p. 77), and his views as to what he denominates "primary trespass" and "secondary trespass" (pp. 252-255)—it may be conjectured that these opinions will not be readily accepted, and that, after more mature consideration, the author himself may not be so certain as he seems at present of the correctness of his views. It is evident that he has given much study to the preparation of the work, and that he has examined a great deal of legal material, but it is not so evident that he knows how to make good use of the material.

The historical statements, and the statements concerning what the courts have actually decided, are, it is true, substantially accurate, but the reader who has some knowledge of the subjects treated feels the incompleteness of the work, and that, because of its incompleteness, it would be likely to mislead one who did not have such previous knowledge. This fault is not so noticeable in the earlier portion of the volume, with reference to which it may be said that we find here an outline of the development of remedial law such as has been given by many others in substantially the same way, and quite as well. The chapters relating to the common-law actions are, in substance, a brief statement of the origin of each action, a statement of the rights which could be enforced by it, and the wrongs which could be redressed thereby, and an outline of any extension in the scope of the action during its history. The particular features of each action as to form of writ and declaration, and the necessity of maintaining the precise form, whatever change in the rights enforced by the action might be tolerated or even encouraged by the courts—the very characteristics, in short, which have caused these actions to be designated as "forms of action"—is so little emphasized that from this work one might be at a loss to know, for instance, what essential difference there is between a declaration in trover at common-law, and a complaint under the reformed procedure to recover upon the same state of facts; and at an

equal loss to know why it has seemed best in most jurisdictions to abolish these forms of action and substitute the single civil action. Without resorting to the works of such recognized authorities as Pollock and Maitland, Professors Ames, Langdell and Bigelow, to whom the author acknowledges indebtedness, it is safe to assert that a study of Hepburn's "Development of Code Pleading" and, say, Martin on Civil Procedure at Common Law, would afford a much more complete and satisfactory knowledge of the topics treated than can be obtained from Mr. Street's volume.

FOIBLES OF THE BENCH. By HENRY S. WILCOX. Chicago: Legal Literature Company. 1906. pp. 144.

This book is an entirely serious and praiseworthy effort on the part of the author, as stated in the preface, to call the attention of the public to such defects, abuses and weaknesses of the bench as he has noticed in the practice of his profession, and to suggest, perhaps, such improvements as have seemed to him to be fit. The author does this with the almost pardonable assumption of a right to put before us all his ideas, from the fact of his having passed the half century mark and spent the larger portion of that time in actual practice as a trial lawyer. The experiences which are the foundation of his conclusions are apparently chiefly those in the Cook County Courts of Illinois.

The book is but the forerunner of a series in which others to follow are to deal with the various frailties and weaknesses of the profession itself, and of the laymen who are, unfortunately, drawn and serve as jurymen, and of the general subject of the law. The author states that there are no books known to him that are of similar character. Any one that reads this book will agree with him.

The author's method in setting forth the "foibles of the Bench" is by taking, chapter by chapter, certain abstract qualities, such as "egotism," "courtesy," "courage," "corruption" and "pugnacity," and after a preliminary discussion of such unpleasant or pleasant traits, he proceeds to a clinical and concrete discussion of each, by bringing before us some judge as a horrible example whom he regards as an instance that will prove his contention. It is a commendable use of the text book system of citing a principle and then finding a case to prove it, even though the case be one of the writer's own creation, as he himself admits.

The author disavows any malicious or petty purpose by stating that in exhibiting the characters "he has not intended to assail any person living or blacken the memories of any who have departed." The characters, he states, are rather "garments, which he has cut;" he has left to us the interesting task of placing them upon those who are best fitted to wear them. Our feeling, however, is that far from being completed garments, the characters are in shreds when finished by their creator, for as the author warms to his subject the "foibles," (which we have always supposed to be faults of a not serious character) develop into what might well be the grounds for impeachment and indictment.

It is hard to say whether the author himself was ever a judge. From the fact that most of the characters, if not all, that he brings before us are judges of altogether undesirable qualities, it is reasonable to suppose that he never was a judge himself. The book, most pessimistic as to the present character of the Bench, does not go so far as to say there are no good judges, but perhaps it is merely an effort on the part of the